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RAMAN, USHA				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/904,825

Applicant(s)

SHAH-NAZAROFF ET AL.

Examiner

USHA RAMAN

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date: _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Arguments

1. Applicant's arguments filed March 2, 2009 have been fully considered but they are not persuasive.

Applicant first argues (see Remark, page 2) that, "applicant's are unable to find any teaching or suggestion in Herz '257 that a viewer characteristic is provided from a different entertainment system". Applicant then goes on to state (see Remark, page 2) that, "this may allow for similar results, but it requires that the viewer carry the card with him and it requires a card reader that can read the profile data". Applicant's latter argument demonstrates that the viewer characteristic provided from a first entertainment device maybe stored on a card and accessible at a different entertainment device. As such Herz ('475) teaches that a viewer characteristic maybe provided from a different entertainment system via card.

Applicant argues (see Remark, page 4) that, "Herz '195 provides access to a different user's preferences through a proxy server. In the claim, the user has access to his own profile at a different location", further stating that, "there is a significant difference between 'masquerading' as someone else and obtaining one's own profile at another location". Applicant's arguments have been duly noted. However claim language fails to make a distinction. Claim merely conveys that viewer characteristic from a first entertainment system be received at a program guide server, and that the viewer characteristic file be subsequently accessible at a different entertainment system. Claim doesn't convey which user does the particular accessing, and accordingly fails to convey that the same user accesses his own

profile at a different location. Moreover, Herz ('257) additionally conveys that there maybe scenarios where a plurality of users may watch a program and it is accordingly advantageous to access profiles of all of those users to find content to all (see col. 50, lines 16-27). As such the modified system would allow viewer characteristics of users of different entertainment system to be accessible at the entertainment system at which content will be viewed. Such a scenario can include a viewer accessing his own profile at a different entertainment system. In any event, it should be noted that Herz ('195) is primarily relied upon for the feature of accessing a user profile corresponding to a user of a different entertainment system remotely from a server. Accordingly the modified system teaches the limitation of , "providing access to the viewer characteristic file remotely from the programming guide at a different entertainment system".

Applicant's arguments stating (see Remark, page 4) that, "the information in the celebrity profile is publicly available for a fee and is therefore very different from the profile that Herz '257 stored in the portable ID card" has been noted. Examiner however respectfully disagrees. The use of celebrity profile as well as fee-based profile access are merely *exemplary* in the Herz '195 reference and are not intended to be limiting as such.

Applicant attempts (see Remarks pages 4-5) to argue that the two Herz reference are not combinable stating that, "these two references are from different fields". Examiner respectfully disagree. The two references are very much analogous and further in the same patent family.

For these reasons stated above, the rejection has been maintained.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 49, 51, 54-57 are rejected under 35 U.S.C. 102(e) as being anticipated by Herz (US Pat. 5,758,257).

With regards to claims 49 and 54, Herz discloses the method of

Sending a form of identification from a viewer at an entertainment system to a programming guide server (see column 42 lines 61-63, column 43 lines 7-15, column 50 lines 19-21);

Receiving an access to a viewer characteristic file for the viewer and provided from a different entertainment system (see column 49 lines 23-30), the viewer characteristic file identifying the viewer (column 26 lines 34-37) and including viewer preferences and demographic information about the viewer (see column 48 lines 5-10).

Claim 54 additionally recites a "a machine readable medium having stored thereon data representing sequences of instructions" causing the machine to perform the above method. This is met by software stored on set top terminal (see

column 46 lines 19-23 and lines 62-67) controller controlling the data collection instructions.

With regards to claim 51, wherein the list is ranked based on the viewer characteristic file (ranking is based on agreement scalar, which is based on viewer profile preferences, see column 45 lines 41-43 and column 19 lines 64-65).

With regards to claim 55, the viewer characteristic files includes information gathered from the viewer (see column 12 lines 3-6).

With regards to claim 56, the viewer characteristic file includes viewing habits of the viewer (see column 48 lines 15-22).

With regards to claim 57, the viewer characteristic file includes channel preferences of the viewer (see column 45 lines 34-40).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 31-48, 50, 52-53, 58-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. (US Pat. 5,758,257) in view of Herz (US Pat. 6,029,195).

With regards to claims 31, and 45 Herz discloses a method comprising:

Receiving a viewer characteristic file (customer profile) at a programming guide server (head end) from a viewer's entertainment system (see col. 41, lines 28-

32 and lines 59-64, col. 42 lines 57-65, col. 43 lines 13-15), the viewer characteristic file identifying a viewer (column 26 lines 30-37) and including viewer preferences and demographic information about the viewer (see column 48 lines 5-10); and

Herz discloses that a user maybe provided access to the stored viewer characteristic file for viewing or manually modifying profile (column 45 lines 50-55). Herz further discloses the step of providing access to the viewer characteristic profile at a different entertainment system (see column 49 lines 23-30). However Herz is silent on the step of providing such access to the viewer characteristic file remotely from the programming guide server at the different entertainment system.

In a related art, Herz ('195) discloses a method of allowing a user U access to another user V's profile so that the user U can "masquerade" as user V and receive customizations according to the V's profile by temporarily substituting U's profile for V's profile. See col. 74, lines 50-col. 75 line 5. In a scenario, where the user U and V are viewers of different entertainment systems, Herz discloses, the step of a server storing viewer specific information (col. 39, lines 1-15), including a viewer characteristic information of a viewer (e.g. user V) from a first entertainment device. The masquerading feature allows remote access of the viewer characteristic information of a particular user by a user at a different entertainment device. This advantageously allows a user's profile to be accessible to any entertainment system from the server.

It would have obvious to modify the system in view of Herz's teachings by allowing proxy server to substitute user's profile (from a first terminal) for another

user's profile (from a second terminal) so that the user at a first terminal can receive customization intended for the second user. Once a substitution is made of the profiles, the modified system can allow the user to view the substituted profile that is currently active as disclosed by Herz '257 (see column 45 lines 50-55). The modified system therefore provides access to the viewer characteristic file remotely from the programming guide server at a different entertainment system.

Claim 45 additionally recites a "a machine readable medium having stored thereon data representing sequences of instructions" causing the machine to perform the above method. This is met by Herz's system controller controlling the data collection instructions (column 43, lines 2-10).

With regards to claim 32, the viewer characteristic files includes information gathered from the viewer (see column 12 lines 3-6).

With regards to claims 33, 41 and 46, the viewer characteristic file includes viewing habits of the viewer (see column 48 lines 15-22).

With regards to claim 34, the viewer characteristic file includes channel preferences of the viewer (see column 45 lines 34-40).

With regards to claim 35, Herz further discloses that the system can be used to provide customized data from the Internet (see column 51 lines 2-7. Herz additionally discloses that the viewer profile is reflective of user's history. While Herz is silent on providing Internet web site types in the viewer profile, it would have been obvious to modify the system to include such data to effect the recommending of Internet data based on user's browsing history.

With regards to claims 36, Herz discloses that user terminals have a telephone or IP addresses that enable communication between servers and terminal (see Herz '195: col. 33, lines 24-29). Herz additionally discloses that users may receive customized internet content at their receivers based viewer profile characteristics (see Herz: '297: column 51 lines 2-7). Accordingly it would have been obvious to further include user terminal information as part of the viewer characteristic information so that the server can transmit customized internet data to the user's terminal according to the viewer characteristic information.

With regards to claim 37, the modified system receives a list of the viewer's (user V) favorite broadcast to the different entertainment system (user U). It is noted that programs are recommended in conformance with user V's preferences and therefore are indicative of information about user V and includes ratings provided by the user (see column 12 lines 3-6).

With regards to claim 38, the modified system includes feedback from the viewer (see column 4 lines 15-22).

With regards to claim 39, the modified system further includes answer to questions about the broadcast (active feedback, column 33 lines 59-64, column 14 lines 22-25).

With regards to claim 40, Herz discloses one of the methods of providing feedback from the viewer is by allowing them to agree or disagree with the assigned content profile ratings. See column 14 lines 25-32. While Herz does not disclose synopsis on the questionnaire, examiner takes official notice that synopsis can be

part of content profile wherein it characterizes the content, and it would have been obvious to allow the user to state their opinion on the synopsis of the content.

With regards to claim 41, the viewer characteristic file includes viewing habits of the viewer (see column 48 lines 15-22).

With regards to claim 42, once a substitution is made of the profiles, the modified system can allow the user to view the substituted profile that is currently active as disclosed by Herz '257 (see column 45 lines 50-55). The modified system therefore provides access to the first viewer characteristic file remotely from the programming guide server at a different entertainment system by providing a form of identification of the first user.

With regards to claim 43, Herz further discloses the receiver receiving list of recommended programs and displaying them to the user. See column 45 lines 34-43. It is noted that programs are recommended in conformance with user's preferences and therefore are indicative of user's favorites.

With regards to claim 44, the list is ranked before it is provided to the user (see column 19 lines 64-65).

With regards to claim 47, once a substitution is made of the profiles, the modified system can allow the user to view the substituted profile that is currently active as disclosed by Herz '257 (see column 45 lines 50-55). The modified system therefore provides access to the first viewer characteristic file remotely from the programming guide server at a different entertainment system by providing a form of identification of the first user.

With regards to claim 48, wherein the list is ranked based on the viewer characteristic file (ranking is based on agreement scalar, which is based on viewer profile preferences, see column 45 lines 41-43 and column 19 lines 64-65).

With regards to claims 50 and 52, Herz discloses the receiver receiving list of recommended programs and displaying them to the user. See column 45 lines 34-43. Herz is silent on the step of providing such access remotely from the programming guide server at a different entertainment system.

In a related art, Herz ('195) discloses a method of allowing a user U access to another user V's profile so that the user U can "masquerade" as user V and receive customizations according to the V's profile by temporarily substituting U's profile for V's profile. See col. 74, lines 50-col. 75 line 5. In a scenario, where the user U and V are viewers of different entertainment systems, Herz discloses, the step of a server storing viewer specific information (col. 39, lines 1-15), including a viewer characteristic information of a viewer (e.g. user V) from a first entertainment device. The masquerading feature allows remote access of the viewer characteristic information of a particular user by a user at a different entertainment device and further agreement matrix in accordance with the accessed profile. This advantageously allows a user's profile to be accessible to any entertainment system from the server and receive customized programs with the accessed profile.

It would have obvious to modify the system in view of Herz's teachings by allowing proxy server to substitute user's profile (from a first terminal) for another user's profile (from a second terminal) so that the user at a first terminal can receive

customization intended for the second user. Once a substitution is made of the profiles, the modified system can allow the user to view the substituted profile that is currently active as disclosed by Herz '257 (see column 45 lines 50-55). Herz '195 further discloses that upon masquerading as another user, programs are recommended in conformance with the other user's profile. Therefore the modified system receives a list of the viewer's (user V) favorite broadcast to the different entertainment system (user U). It is noted that programs are recommended in conformance with user's preferences and therefore are indicative of user's.

With further regards to claim 52, viewer profile (user V) is available at user U's entertainment system in the modified system. The viewer profile for user V comprises ratings provided by the viewer V at the different entertainment system of broadcasts.

With regards to claim 53, Herz discloses that the ratings based on processing generating ratings of broadcasts (agreement scalar), based at least in part on received viewer feedback (column 14 lines 1-3 and 15 lines 51-55) to the broadcasts.

With regards to claim 58 and 62, Herz discloses an entertainment server system comprising:

A communication interface (data collection) to receive viewer characteristic files (see column 42 lines 61-63, column 43 lines 7-15) from a plurality of different entertainment systems about a plurality of different viewers (see column 41 lines 32-36) the viewer characteristic file identifying a viewer (column 50 lines 19-21) and

including viewer preferences and demographic information about the viewer (see column 48 lines 5-10) and to receive a form of identification from a plurality of different viewers (see column 42 lines 61-63, column 43 lines 7-15, column 50 lines 19-21);

Herz is silent on the step of providing a form of identification from a viewer at a first entertainment system and to provide through the communications interface access providing such access to a viewer characteristic file from a second entertainment system.

In a related art, Herz ('195) discloses a method of allowing a user U access to another user V's profile so that the user U can "masquerade" as user V and receive customizations according to the V's profile by temporarily substituting U's profile for V's profile. See col. 74, lines 50-col. 75 line 5. The substitution can be made when user specific data regarding user V is provided by user U (see column 74 lines 55-58). In a scenario, where the user U and V are viewers of different entertainment systems, Herz discloses, the step of a server storing viewer specific information (col. 39, lines 1-15), including a viewer characteristic information of a viewer (e.g. user V) from a first entertainment device. The masquerading feature allows remote access of the viewer characteristic information of a particular user by a user at a different entertainment device. This advantageously allows a user's profile to be accessible to any entertainment system from the server.

It would have obvious to modify the system in view of Herz's teachings by allowing proxy server to substitute user's profile (from a first terminal) for another

user's profile (from a second terminal) so that the user at a first terminal can receive customization intended for the second user. Once a substitution is made of the profiles, the modified system can allow the user to view the substituted profile that is currently active as disclosed by Herz '257 (see column 45 lines 50-55). The modified system therefore provides access to the first viewer characteristic file remotely from the programming guide server at a different entertainment system by providing a form of identification of the first user.

With regards to claim 59, Herz further discloses wherein the processor further provides through the communications interface a programming guide that includes ratings based on the viewer characteristic file to which access was provided at the first entertainment system. See column 45 lines 41-43 and column 19 lines 64-65.

With regards to claim 60, Herz discloses that the programming guide includes a ranked list of broadcasts based on the viewer characteristic file. See column 45 lines 41-43 and column 19 lines 64-65.

With regards to claim 61, Herz discloses that the broadcasts are ranked based on processing generating ratings of broadcasts (agreement scalar), based at least in part on received viewer feedback (column 14 lines 1-3 and 15 lines 51-55) to the broadcasts, the rating indicating a likelihood of interest in a first broadcast for potential subsequent viewer (see column 38 lines 19-41), the processor further assembling a list of available broadcast for viewers and ranking the available based on received viewer characteristic files. See column 45 lines 41-43 and column 19 lines 64-65.

With regards to claim 63, Herz further discloses the receiver receiving list of recommended programs and displaying them to the user. See column 45 lines 34-43. It is noted that programs are recommended in conformance with user's preferences and therefore are indicative of user's favorites.

With regards to claim 64, the communications network comprises a cable television network (see fig. 6).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to USHA RAMAN whose telephone number is (571)272-7380. The examiner can normally be reached on Mon-Fri: 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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